

Judicial Impact Fiscal Note

Bill Number: 5866 SB	Title: Tax court, creating	Agency: 055-Administrative Office of the Courts
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2018	FY 2019	2017-19	2019-21	2021-23
General Fund-State 001-1	48,500	48,500	97,000	97,000	97,000
Counties					
Cities					
Total \$	48,500	48,500	97,000	97,000	97,000

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

<http://www.ofm.wa.gov/tax/default.asp>

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.

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Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 03/15/2017
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 03/15/2017

Request # -1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

This bill would add a new chapter to RCW Title 2.

Section 102 would establish a new tax court in Washington, which would be an independent court of record with statewide jurisdiction. The tax court would consist of one judge selected from each district of the court of appeals and such commissioners as are appointed by the tax court.

Section 104 would establish two departments of the court - a main department and a commissioner department of the court. (1)(a) The main department would consist of three judges. Each judge would hear cases as an individual, except for those cases that must be heard by a three-judge panel. (c) would have the three-judge panels hear both original tax appeal cases and appeals of decisions made by individual tax court judges. Three-judge panels would also hear appeals from a decision of the superior court and from the commissioners. (e) States that every cause submitted to the main department of the tax court must be decided within six months from the submission thereof. The court may extend the six-month period, for good cause, up to three additional months. (2) The commissioner department would be an informal option for appeals and would hear all appeals that are not heard initially by the main department or a three-judge panel.

Section 105 states (1) The tax court must adopt rules for the administration and procedures of the court. (2) The Supreme Court may assign a judge of the tax court to serve as a judge pro tem of the court of appeals. (3) The final decisions of the main department of the tax court must be published. Decisions of a three-judge panel and decisions by a single judge of the main department that are not reviewed by a three-judge panel are subject to review by the Supreme Court. (5) The final decisions of the commissioner department must be in writing and available for electronic research but are not citable as published opinions. The commissioners' decisions would be appealable only to the main department of the tax court.

Section 108 (1) states that all proceedings before the tax court, except as provided below, would be original proceedings and tried de novo without a jury. (4) states that the tax court would have concurrent original jurisdiction with the superior court in hearing appeals and exclusive jurisdiction of superior court decisions to decide tax appeals. (5)(b)(iv) states that every year, the AOC must review the dollar threshold for certain types of appeals and adjust the amount for inflation.

Section 109 would set the filing fee for appeals to the main department at \$250. The filing fee for appeals to the commissioner department would be \$50.

Section 228 would abolish the Board of Tax Appeals. All classified employees of the BTA would be assigned to the tax court. All cases of the BTA would be transferred to the tax court.

Section 302 states that the act would take effect on January 1, 2018. The BTA would be abolished July 1, 2019. The first election of the judges would be in the general election in 2018. Beginning February 1, 2019, judges would be able to take actions necessary to help with the establishment of the tax court.

II. B - Cash Receipts Impact

Section 109 would set the filing fee for appeals to the main department at \$250. The filing fee for appeals to the commissioner department would be \$50.

Using the Board of Tax Appeals fiscal year 2016 numbers for formal and informal appeals and assuming that formal appeals would be filed with the main division of the tax court and the informal appeals would be filed with the commissioner department, the following calculations are used to estimate potential revenue.

28 formal tax appeals in fiscal year 2016 X \$250 = \$7,000

830 informal tax appeals in fiscal year 2016 X \$50 = \$41,500

II. C - Expenditures

This analysis does not include any funding or staffing that may be transferred from the Board of Tax Appeals. The staffing and costs estimated represent the gross cost regardless of the funding transferred. Further staffing and cost adjustments will be necessary after implementation.

Section 102 would establish a new tax court in Washington. The court would consist of one judge selected from each district of the court of appeals and such commissioners as are appointed by the tax court. There are nine districts therefore it is assumed that there would be nine elected judges. The assumption is that they would receive the same pay as the judges for the courts of appeal in Washington. Their current salary is \$174,244 per year and estimated benefits are \$48,312 for a total of \$222,556 per year per judge. The total annual salary and benefit cost for nine new judges would be \$2,003,000.

Each judge with the court of appeals has a judicial administrative assistant and two law clerks. The assumption is that each judge with the tax court would also require the same staff. The current court of appeals judicial administrative assistant annual salary is \$58,548 and benefits are \$22,169 for a total of \$80,717 per assistant. The estimated cost for nine judicial administrative assistants is \$726,453. The current court of appeals law clerk annual salary is \$50,496 and benefits are \$20,653 for a total of \$71,149 for each law clerk. The estimated cost for eighteen law clerks is \$1,280,682.

The current court of appeals commissioner annual salary is \$126,792 and benefits are \$35,020 for a total annual cost of \$161,812. The assumption is that there would be at least one commissioner per judge so the total cost for nine commissioners is \$1,456,308.

In addition to the above FTEs, the tax court will require a court administrator, receptionist, court reporter and case manager. The current court of appeals court administrator annual salary is \$124,620 and benefits are \$34,963 for a total annual cost of \$158,203. The current salary for a receptionist is \$38,544 and benefits are \$18,330 for a total annual cost of \$56,874. The current salary for a case manager and court reporter is \$53,016 and benefits \$21,056 for a total annual cost per position of \$74,072.

Total FTE for judges, commissioners, judicial administrative assistants and law clerks is 49 and the annual salary and benefits would total \$5,882,964. Average set up cost per FTE is \$5,000 for an additional cost of \$245,000 (\$5,000 x 49). On-going employee goods and services and travel per FTE is \$2,000. This would add \$98,000 to the cost (\$2,000 x 49).

Section 228 would abolish the Board of Tax Appeals. All classified employees of the BTA would be assigned to the tax court. All cases of the BTA would be transferred to the tax court. It is assumed that a portion of the BTA budget would be transferred to the new tax court and a portion to the Administrative Office of the Courts. It is also assumed that all facility, budget, accounting, payroll, web, desktop and other administrative activities for the tax court would be handled by the Administrative Office of the Courts. Currently, it is estimated that a 0.5 FTE financial analyst 2 and a 0.5 FTE information technology specialist 1 would be needed. The salary for a half time ITS2 position is \$27,063 and the benefits are \$18,614 for total annual cost of \$45,677. The salary for a half time FA2 position is \$27,864 and the benefits are \$18,836 for total annual cost of \$46,700. In addition, based on information from the BTA, their educational materials consist of a 14th edition of Appraisal of Real Estate. They have hardbound case reports for Washington through 2012. They have no other research materials other than their Lexis subscription. It is assumed updated materials would need to be acquired and that providing training and implementation materials to the court would require one full time educator and could take at least a year to implement, depending on the project. The annual salary for a court educator is \$61,884 and benefits are \$23,814 for a total cost of salary and benefits of \$91,698.

The bill is silent on where the tax court would be located. There is not enough information in the proposed legislation to quantify the cost. However, even if there is only one court location, a provision would need to be made for facility, utility, and other costs associated with housing a tax court.

Based on information from the Board of Tax Appeals, their case management system is antiquated and was programmed just for BTA. While it cannot work with any other system, it can be exported to an Access database. They also note that in case matters, they are not in compliance with most OCIO standards for statewide networks so it is unlikely that they have hardware or software that can be transferred. Because this is a new type of court, the judges would be required to develop and implement court rules and procedures. These would need to be established before it could be determined whether one of the case management systems AOC is currently deploying would work or whether a new system would need to be developed. In addition, the system would need to share data with other court systems. It is assumed that AOC, at a minimum, would have to create information and documentation, including potential on-line materials and manuals for a new system. AOC is unable to quantify the cost for a new or revised case management IT system and for the educational costs associated with it.

Section 302 states that the act would take effect on January 1, 2018. The BTA would be abolished July 1, 2019. The first election of the judges would be in the general election in 2018 and they would be sworn in during January 2019. Beginning February 1, 2019,

judges would be able to take actions necessary to help with the establishment of the tax court. Therefore, the costs associated with the salaries and benefits of the tax court personnel would not begin until January 1, 2019. The cost of salaries and benefits for the 2017-2019 biennium would be for six months. That cost would be \$3,312,870 (\$6,013,740 divided by 2 for salaries and benefits in addition to the start up costs and half the good and services and travel for the biennium.)

NOTE: All costs displayed are estimates. Additional staff and other costs may be required.

Part III: Expenditure Detail

Part IV: Capital Budget Impact



Ten-Year Analysis

Bill Number 5866 SB	Title Tax court, creating	Agency 055 Administrative Office of the Courts
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This ten-year analysis is limited to agency estimated cash receipts associated with the proposed tax or fee increases. The Office of Financial Management ten-year projection can be found at <http://www.ofm.wa.gov/tax/default.asp>.

Estimates

No Cash Receipts

 Partially Indeterminate Cash Receipts

 Indeterminate Cash Receipts

Estimated Cash Receipts

Name of Tax or Fee	Acct Code	Fiscal Year 2018	Fiscal Year 2019	Fiscal Year 2020	Fiscal Year 2021	Fiscal Year 2022	Fiscal Year 2023	Fiscal Year 2024	Fiscal Year 2025	Fiscal Year 2026	Fiscal Year 2027	2018-27 TOTAL
Filing Fee	001	48,500	48,500	48,500	48,500	48,500	48,500	48,500	48,500	48,500	48,500	485,000
Total		48,500	485,000									
Biennial Totals		97,000		97,000		97,000		97,000		97,000		485,000

Narrative Explanation (Required for Indeterminate Cash Receipts)

Section 109 would set the filing fee for appeals to the main department at \$250. The filing fee for appeals to the commissioner department would be \$50.

Using the Board of Tax Appeals fiscal year 2016 numbers for formal and informal appeals and assuming that formal appeals would be filed with the main division of the tax court and the informal appeals would be filed with the commissioner department, the following calculations are used to estimate potential revenue.

28 formal tax appeals in fiscal year 2016 X \$250 = \$7,000
 830 informal tax appeals in fiscal year 2016 X \$50 = \$41,500

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OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 3/15/2017 9:13:50 am

Section 102 Tax Court Support Costs					
	FY 2018	FY 2019	2017-2019	2019-21	2021-23
Court Administrator (1.0 FTE)		79,102	79,102	316,406	316,406
Receptionist (1.0 FTE)		28,437	28,437	113,748	113,748
Case Manager (1.0 FTE)		37,036	37,036	148,144	148,144
Court Reporter (1.0 FTE)		37,036	37,036	148,144	148,144
Total		181,611	181,611	726,442	726,442

Section 102 Tax Court Judges/Support Costs					
	FY 2018	FY 2019	2017-2019	2019-21	2021-23
Judges (9.0 FTE)		1,001,500	1,001,500	4,006,000	4,006,000
Judicial Assistant (9.0 FTE)		363,227	363,227	1,452,906	1,452,906
Law Clerks (18.0 FTE)		640,341	640,341	2,561,364	2,561,364
Total		2,005,068	2,005,068	8,020,270	8,020,270

Section 102 Tax Court Commissioners Costs					
	FY 2018	FY 2019	2017-2019	2019-21	2021-23
Commissioner (9.0 FTE)		728,154	728,154	2,912,616	2,912,616
Total		728,154	728,154	2,912,616	2,912,616

Section 228 AOC Support					
	FY 2018	FY 2019	2017-2019	2019-21	2021-23
Financial Analyst 2 (.5 FTE)		23,350	23,350	93,400	93,400
Information Technology Specialist 1 (0.5 FTE)		22,839	22,839	91,354	91,354
Court Educator (1.0 FTE)		45,849	45,849	183,396	183,396
Total		92,038	92,038	368,150	368,150

Total All Costs					
	FY 2018	FY 2019	2017-2019	2019-21	2021-23
Total FTE Costs (51.0 FTE)		3,006,870	3,006,870	12,027,478	12,027,478
Standard employee goods/services		51,000	51,000	204,000	204,000
Standard employee equipment		255,000	255,000		
Total all costs		3,312,870	3,312,870	12,231,478	12,231,478